

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TOBY TOREAL TOWNSEND,

Petitioner,

Case No. 1:06-cv-749

v.

Hon. Wendell A. Miles

THOMAS K. BELL, Warden,

Respondent.

_____/

JUDGMENT APPROVING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

On November 9, 2006, United States Magistrate Judge Ellen S. Carmody issued a Report and Recommendation ("R & R") recommending that petitioner's application for habeas corpus relief be dismissed without prejudice for failure to exhaust available state court remedies. No objections were filed to the R&R.

The court, having reviewed the R & R filed by the United States Magistrate Judge in this action and the relevant portions of the file in this matter, determines that the Magistrate Judge has made a thorough and accurate review of the record and agrees with the reasoning and recommended disposition contained in the R & R. Therefore, the court hereby approves and adopts the R & R as the decision of the court.

IT IS ORDERED that Petitioner's application for habeas corpus relief be DISMISSED without prejudice pursuant to Rule 4 of the Rules Governing § 2254 Cases for failure to exhaust available state court remedies.

Dated: December 28, 2006

/s/ Wendell A. Miles
Wendell A. Miles
Senior U.S. District Judge